

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

SHARON LEA MANNING WAID,

Plaintiff,

VS.

CASE NO. 2:06-cv-171-MEF

BUDGET RENTAL CAR, Inc. et. al.

Defendants.

AFFIDAVIT OF TOM PAYNE

Before me the undersigned, a Notary Public in and for said State at Large, personally appeared Tom Payne, Attorney for the Plaintiff, who is known to me, who being duly sworn, deposes and says on oath as follows:

“My name is Tom Payne. I am the Attorney for the Plaintiff, Sharon Lea Manning Waid on the subject matter. I am the Attorney who represented the Plaintiff in the filing on August 24, 2005 of the initial action in a car wreck that occurred on August 26, 2003 involving Plaintiff and a Defendant named Regina V. Freeman and a second named Defendant, Budget Rental A Car, Inc. in the Circuit Court of Montgomery County, Alabama, Case No. CC-05-2185-R. The Complaint filed herein was a personal action against both Defendants with Count 1 for negligent action against Defendant Freeman and Count 11 a Negligent Entrustment action against Defendant, Budget Rent A Car, Inc. Service was had on the Defendant, Budget Rental A Car, Inc. on September 2, 2005 with a returned service on Defendant, Regina V. Freeman via certified mail of “vacant” on or about September 19, 2005. Defendant, Budget Rental Car, Inc. filed an

Answer which for the purpose of this filing has no testamentary evidence or documentary evidence of being an Agent or employee of the United States of America.”

“Although at the time of said filing no absolute knowledge was known of the involvement of the United States Air Force United States of America. In order to protect Plaintiff’s rights against said situation in the event that the facts proved that the United States Air Force was involved and to protect the rights of the Plaintiff a form 95 claim was filed with the United States Air Force. Discussions thereafter were held to the fact of ascertaining if in fact Defendant Freeman was within the confines of the Federal Torts Claims Act due to here employee relationship with the United States Air Force and her duties at the time of the car wreck. Until the filing of Removal on February 24, 2006, no official notice was no documentation of any kind was provided to Plaintiff’s Attorney until the Notice of Removal Action filed with the Circuit Court of Montgomery County, Alabama on or about February 24, 2006. This Removal was sought by statute through the office of the Attorney General and was without any direct trustworthy testamentary evidence or documentary evidence of the employment and actions of Defendant Freeman as of the date of the car wreck. Nor was any evidence given as to the position of Defendant, Budget Rental A Car, Inc. as an agent or employee of the United States of America in any fashion.”

“Subsequently a Notice of Dismissal was filed with this Honorable Court on March 27, 2006 was filed by the United States of America on all counts of this matter, including the Count 11 Negligent Entrustment against Defendant, Budget Rental A Car, Inc., although no trustworthy testamentary evidence or documentary evidence was filed

therein as to the government involvement with the employer-employee relationship with Defendant Freeman.”

“Tom Payne says that the first official document as to any involvement in this car wreck matter by the United States was the filing on February 24, 2006 in its Notice of Removal filing with the Circuit Court of Montgomery, Alabama.”

DONE this the 11th day of April 2006.


TOM PAYNE
ATTORNEY FOR PLAINTIFF

SWORN TO AND SUBSCRIBE TO BEFORE ME THIS THE 11TH DAY OF
APRIL 2006.


NOTARY PUBLIC